

Members

Sen. Richard Bray, Chairperson  
Sen. David Ford  
Sen. William Alexa  
Sen. Timothy Lanane  
Rep. Robert Kuzman  
Rep. Dale Sturtz  
Rep. Ralph Ayres  
Rep. Kathy Richardson  
Chief Justice Randall T. Shepard  
Judge Ernest Yelton  
C. Joseph Anderson, Jr.  
William Overdeer  
Sarah M. Taylor



## COMMISSION ON COURTS

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Authority: IC 33-1-15

### MEETING MINUTES<sup>1</sup>

Meeting Date: August 17, 2000  
Meeting Time: 1:30 P.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 404  
Meeting City: Indianapolis, Indiana  
Meeting Number: 2

**Members Present:** Sen. Richard Bray, Chairperson; Sen. Timothy Lanane; Rep. Kathy Richardson; Chief Justice Randall T. Shepard's designee Justice Frank Sullivan; Judge Ernest Yelton; C. Joseph Anderson, Jr.; William Overdeer; Sarah M. Taylor.

**Members Absent:** Sen. David Ford; Sen. William Alexa; Rep. Robert Kuzman; Rep. Dale Sturtz; Rep. Ralph Ayres.

Sen. Bray convened the meeting at 1:40 p.m. Staff counsel distributed a copy of the meeting agenda for the current meeting and a copy of the minutes from the August 2<sup>nd</sup> meeting. The Commission reviewed the minutes from the August 2<sup>nd</sup> meeting and approved them.

Mr. Jeffrey A. Bercovitz, Probation/Juvenile Director, Indiana Judicial Center, provided the Commission with a copy of a report entitled "Report on the Study of the Allen County

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Family Relations Alternative Dispute Resolution Plan" (December 9, 1999) (available from the Legislative Information Center as Exhibit 1). Mr. Bercovitz provided the report to supplement the discussion on the topic of family relations courts that the Commission conducted at its August 2<sup>nd</sup> meeting.

Justice Sullivan reported on the status of the JTAC project initiated by the Supreme Court. JTAC stands for "Judicial Technology and Computerization Commission". The goal of the project is to provide compatible computerized case management systems, e-mail, and Internet services to courts, county clerks, and to other persons who rely on data generated by the courts. Courts have been asked to place a moratorium on new computer and software purchases until the study is complete. The Supreme Court will be submitting a budget proposal to the next General Assembly to fund the project.

He indicated that the project is being driven by a number of guiding principles. The most important principle is that all affected persons should be consulted in a collaborative fashion to develop a useful system. He said that recent advances in Internet software and technologies will provide benefits that could not have been achieved several years ago.

Sarah Taylor said she was glad that clerks were being consulted. She noted that the issue was sensitive. Justice Sullivan noted that the Commission was attempting to learn from past experiences.

William Overdeer commented that the issue of who pays for the system should be closely studied. Justice Sullivan noted that counties already pay a significant amount to capture and share information. He used the collection of suspended driver information and the transmission of that information to the Bureau of Motor Vehicles as an example. He suggested that a computer system should result in savings to the counties.

Sen. Bray asked if there was a need for substantive legislation to implement this project. Justice Sullivan indicated that it was too early to evaluate what legislative changes would be needed. He noted that the Supreme Court has hired an analyst to work on the JTAC project full time.

Sen. Bray asked if it would result in improvements in the data used in the weighted case load study. Justice Sullivan indicated that the system will be designed with the objective of providing better information for policy decisions.

Sarah Taylor asked how the JTAC project related to the AIMS project. Justice Sullivan said that the AIMS project was designed to set common standards for the sharing of case management information. The JTAC project is an outgrowth of the AIMS project and as such replaces it.

Sen. Lanane asked if the project would result in the electronic filing of records. Justice Sullivan noted that there are paperless courts in the United States. However, he said that this is a long term goal that is outside the scope of the JTAC project.

Rep. Richardson asked whether the project would result in requiring counties to purchase a particular brand of software or system. Justice Sullivan said that the Commission is aware of the need to accommodate legacy systems. He said he would be very surprised if the Commission made a recommendation that the Supreme Court should mandate a particular system. He warned that some counties may need to change their systems in order to meet minimum standards.

Mark Goodpaster, Legislative Services Agency, presented a report on the sources and

uses of court fees. His presentation is available from the Legislative Information Center as Exhibit 2. He noted that the statutes controlling how court fees are charged and distributed were amended in 1987, 1989, 1991, 1995, and 1997. Court fees, other than user fees, that are generated in a court operated by a county are split between the state, the county, and cities and towns on a 70%/27%/3% basis. Court fees, other than user fees, generated in a city or town court are shared by the state, the county, and cities and towns on a 55%/20%/25% basis. He noted that there also are a number of user fees that are dedicated to a particular purpose.

Judge Yelton asked how Mr. Goodpaster had accounted for waived fees. Mr. Goodpaster said he used a formula in which he counted the number of filings and then subtracted the number of dismissed pauper cases.

Sarah Taylor noted that the cases that cost the least to process are the cases that generate the most income. Senator Bray concurred that traffic cases contribute a disproportionate amount of court fee revenue.

The Indiana Association of Cities and Towns requested that the Commission endorse a proposal to increase the percentage of court fees distributed to cities and towns that have a city or town court. Senator Riegsecker introduced the topic by stating that the City of Goshen had brought the issue to his attention. He said the City has incurred a \$150,000 deficit in the operation of its court. Goshen has seriously considered eliminating the court.

Matt Brase from the Indiana Association of Cities and Towns distributed financial data for 14 city courts and two town courts (available from the Legislative Information Center as Exhibit 3). He also distributed the following handouts:

- (1) A list of persons present who are concerned about the issue (available from the Legislative Information Center as Exhibit 4).
- (2) A memorandum from Judge Bobby Turpin, Judge of the Roanoke Town Court, describing the revenues and expenses for the court (available from the Legislative Information Center as Exhibit 5).

Judge Joe Christle, Wabash City Court Judge, indicated that the problem involves how the revenues are distributed. He noted that all of the expenditures for operating the court are borne locally but the state and the county receive a substantial share of the income. He suggested that it was unfair for the city or town taxpayers to bear the burden of covering the deficit.

Sen. Lanane asked whether he correctly understood that the proposal did not involve raising court fees. Judge Christle said that Sen. Lanane's understanding is correct.

Judge Yelton asked whether city and town courts have concurrent jurisdiction with county wide courts. Judge Christle said they did in most cases. Judge Yelton asked if filings were increasing or declining in city and town courts. Judge Christle said they were increasing.

Mr. Anderson said that the city courts in his county were not having a problem with finances. Jody Woods, general counsel to the Indiana Association of Cities and Towns indicated that the problem was identified in a survey of 16 cities and towns. She said that the survey included both large and small municipalities. She also noted that many city and town courts have territorial limits on their jurisdiction.

Judge Paul Sterreth, Judge of the Mooresville Town Court, noted that city and town courts provide a number of benefits. They handle cases that would otherwise crowd the dockets

of county courts and allow litigants to resolve disputes without driving great distances to the county seat. He noted that the problems of city and town courts are often neglected by state and county officials, including other judges.

Sen. Lanane asked if the failure to collect court fees was a major problem. Judge Sterreth said that there is a collection problem. He suggested that imposing a late fee on the payment of court fees would act as an incentive to get the fees paid.

Judge Linda Wolf, Muncie City Judge, indicated that her court handles more than 2,000 cases each year. She indicated that city officials are very interested in generating a profit from the operation of a city court. She said the disputes over the court's profit making ability make the court appear unethical. She concurred that a late fee for the collection of court fees after a due date set by the court is justified as a result of the costs of collection. She also suggested imposing a \$25 court fee for a Class D infraction and giving a city or town court \$5 of the fee.

Senator Lanane asked if the city court had probation officers. Judge Wolf said that the court does. Mr. Overdeer asked who pays for the probation officer. Judge Wolf said that the city pays for a probation officer, a public defender, two secretaries, and a bailiff. The county pays for the deputy prosecutor who appears in cases before the city court.

Rep. Richardson asked if Judge Wolf has any research on the effectiveness of late fees. Judge Wolf said no.

Judge Tom Stefaniak, Jr. from Hammond City Court said his court has 25 employees. Judge Sterreth said he has two full-time and two part-time personnel.

Judge C. J. McGregor, Goshen City Court, said that city and town courts reduce the caseload burden on county courts, are a source of local pride, provide for convenient access to the courts for local law enforcement officers, and allow communities to administer justice in a way that is focused on the unique needs of the community being served. She said that the Goshen mayor is very concerned about the cost of operating the court.

Travis D. Worl made a PowerPoint presentation to the Commission on behalf of the Association of Indiana Counties (photocopies of the slides are available from the Legislative Information Center as Exhibit 6). He indicated that county expenditures for court services are rising at a higher rate than available property tax revenue, which is capped by state law. He also noted that court fees generated in county operated courts are shared with the State, cities, and towns. The fees retained by the county do not cover the operating deficit. Mr. Worl indicated that counties have very little practical power to limit court expenditures. Judges have mandate power to order counties to cover court expenditures. The Association of Indiana Counties has established a joint committee with the Indiana Judges Association to look for potential solutions to this problem. Options previously or currently being studied by the committee include the following:

- (1) Fiscal home rule.
- (2) Redistribution of court fees at more equal percentages.
- (3) A nonproperty tax levy to fund the courts.
- (4) A property tax levy outside the property tax cap to fund the courts.
- (5) Full state funding of the court system.

The Commission received a letter from Stephen J. Malone, Elkhart County Auditor, presenting revenue and expenditure data for the circuit and superior courts in Elkhart

County (available from the Legislative Information Center as Exhibit 7).

Justice Sullivan noted that mandate orders are subject to review by the Indiana Supreme Court under Trial Rule 60.5. He noted that very few of these orders have been sustained over the objection of the county. Mr. Worl indicated that his only point was that costs can be mandated but the property tax revenue cap cannot be waived.

Justice Sullivan asked if the counties could use county option income tax revenues or county adjusted gross income tax revenues to fund court operations. Mr. Worl indicated that these funds could be used to fund courts.

Judge Yelton noted that Mr. Worl said that the State, cities, and towns received a three million-dollar profit in 1998. Judge Yelton noted that representatives of the Indiana Association of Cities and Towns testified earlier in the meeting that cities and towns were not making a profit. Mr. Worl clarified his remarks by suggesting that individual city and town courts may be operating at a deficit but statewide total revenue exceeds total statewide city and town court expenditures.

Justice Sullivan and Judge Yelton asked if the Association of Indiana Counties has withdrawn its historical objection to full state funding of the court system. Judge Yelton noted that the Association had vigorously opposed SB 12 (1996) on this point. Mr. Worl indicated that the Association was exploring all potential options.

Mr. Overdeer and Rep. Richardson observed that counties see the courts as separate from other county employees. For example, the courts many times have different pay schedules, operating hours, and holiday schedules from other county employees. These differences can be frustrating.

Mr. Anderson asked for more data on the costs of the State, cities, and towns and a comparison of costs to court fee revenues received by the State, the cities, and the towns. Sen. Bray asked the Commission fiscal analyst to provide the information at the next meeting. He requested that the comparison include such costs as state expenditures for judicial and prosecutor pensions.

Betty Lou Jerrel, Vanderburgh County Commissioner, testified that Vanderburgh County has formed a committee and hired a consultant to review and manage the problem of court related costs, including the costs of housing prisoners waiting for trial. She commended the local judges for cooperating with this effort. The effort has resulted in significant savings. However, even with this major commitment to prudent fiscal management, the costs of running the court system are rising at a rate faster than the County revenue available to fund the courts. She indicated that the County has already tapped 50% of its county option income tax revenue to fund courts. She noted frustration with the fact that courts use employment practices that differ from the employment practices applicable to other county employees.

Justice Sullivan stated that he was aware of the working relationship that Vanderburgh County officials have established with the local judges. He wished to commend them for their efforts.

Staff counsel indicated that the Commission has received the following additional proposals for study:

- (1) Convert the 13 county-paid commissioners in Marion County to state-paid magistrates.

(2) Allow the Unified Delaware Circuit Court to hire a part-time commissioner who has the legal authority to practice before any judge other than the judge appointing the commissioner.

The Commission unanimously voted in accordance with IC 33-1-15-7 to hear testimony on all requests submitted to the Commission after July 1.

Senator Bray thanked all persons for their testimony. He adjourned the meeting at 4:30 p.m.